

Use of 'Bug' Is Admitted By Justice

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Figure and Lawyer

Says FBI Listened
In on Baker Case

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The Justice Department confessed to the Supreme Court yesterday that the FBI had eavesdropped on conversations between Fred B. Black Jr., former business associate of Robert G. (Bobby) Baker, and his lawyer.

Solicitor General Thurgood Marshall made the extraordinary admission that agents installed an electronic listening device in Black's Sheraton-Carlton Hotel suite and used it both before and after Black was indicted for tax evasion in March, 1963.

Neither the FBI nor the Justice Department would comment yesterday on the disclosure. At the time of the acknowledged Government eavesdropping, however, the FBI was engaged in an intensive investigation of Las Vegas-based gambling and rackets operations.

Court Gets Memorandum

Marshall's bombshell disclosure came in a memorandum to the Court Justice Department spokesmen specifically refused comment on any implications the bugging may have on Baker's forthcoming trial.

Baker, former Senate majority secretary, has alleged that "massive wiretapping" has tainted the evidence the Government plans to use at his trial on conspiracy and tax fraud charges. He has asked the District Court to force the Government to prove its information was gathered independently of eavesdropping activities.

Black, Washington public re-

lationsman, was a codefendant with Baker in a civil lawsuit over vending machine franchises that erupted late in 1963 into a national conflict-of-interest scandal. Baker resigned under fire.

The tax fraud prosecution
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brought Black a sentence of 15 months to four years and a \$28,000 fine. The Supreme Court refused May 2 to hear the case and Black's lawyer, Hans A. Nathan, has until Friday to petition the Court for a rehearing.

Nathan said yesterday that Black's petition was on its way to the printer when he was served with the Marshall memorandum. The petition's leading argument, he said, had been the "very bugging" that Baker complained of in his motion to suppress trial evidence.

Without waiting for Nathan's filing, Marshall notified the Court that Black "is entitled to a judicial determination" of whether the eavesdropping produced prosecution leads or evidence.

Marshall suggested that the Federal District Court here could hold a hearing, at which "the Government proposes to submit all of the facts upon which a full judicial determination can be made."

Eavesdropping Explained

The Solicitor General said

the intercepted lawyer-client conversations did not produce such leads. He said the eavesdropping was conducted without knowledge of the Criminal Division and pertained to "various" unidentified individuals not related to the Black tax case.

Only late last month, Marshall said, did the Tax and Criminal Divisions jointly determine that bugging had taken place and that Black's case might be affected. Baker's motion was filed April 26.

Marshall said that sometime after April 21 the Department "reviewed materials derived" from the hotel "bug" to see whether it "would prejudice a pending criminal investigation unrelated to" Black. Marshall did not say what the unrelated investigation was.

The Supreme Court is already sensitive to the eavesdropping problem. It has called for arguments next fall in the case of Teamster president James R. Hoffa. The issue is whether Hoffa's jury-tampering conviction should be reversed because a Government informer was placed in the defense camp at an earlier trial.